

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 5435 of 2018

Balraj Kumar Dheer, S/o. Late Shri Satya Prakash Dheer, Aged About 77 Years, (Retired Chief Executive Engineer). R/o- MIG- 19, Indrawati Colony, Raipur, District- Raipur, Chhattisgarh.

---- Applicant

Versus

The State Of Chhattisgarh, Through- The Officer In Charge Of Police Station- Vidhan Sabha, Raipur, District- Raipur, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Surendra Singh Sr. Advocate with Mr. Anil Singh Rajput & Mr. Roop Naik, Advocates
For Respondent/State:		Mr. Anupam Dubey, Dy.G.A..
For Objector	:	Mr. Sunil Pillai, Advocate with Mr. Sumit Raghuwanshi, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

13/08/2018

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.107/2016, registered at Police Station- Vidhan Sabha, Raipur, District – Raipur (C.G.) for the offence punishable under Section 420, 467, 468, 469, 470, 471 and 120-B of Indian Penal Code.
2. Learned Sr. Counsel appearing on behalf of the applicant submits that the applicant has been falsely implicated in this case. The applicant had not been a party to the alleged agreement dated 07.09.1991 and there is no such evidence on record to suggest that this applicant was present behind the preparation and execution of that agreement. According to the material present in the FIR lodged in this case, the

only case i.e. is made out against the applicant is of making false statement before the concerned criminal Court, where his statement has been recorded. This applicant is not connected with the commission of other offence registered in this case under Section 420, 467, 468, 469, 470, 471 and 120B of the Indian Penal Code. Hence, in the offence that is made out, the trial Court can not take cognizance without the complaint made by the concerned Court as it is required under Section 195 of Cr.P.C. It is further submitted that the applicant is 77 years old man and is suffering from various diseases. Hence, it is prayed that the applicant may be enlarged on regular bail.

3. On the other hand, the learned counsel appearing for the State opposes the bail application and the submission made in this respect. It is submitted that this applicant is alleged to have prepared the forged agreement and also made false statement before the Court, hence, he is not entitled to be released on regular bail.
4. Learned counsel appearing on behalf of the objector submits that the applicant has indulged in conspiracy against the complainant. On the basis of the forged agreement he has caused filing of 14 cases against the complainant and the litigation has continued since 1998. This applicant has given statement before the Court in complaint case filed by him as complainant, that three copies of the same agreement were prepared in his residence and he was present at the time of preparation of that agreement. Though he has not signed the agreement as witness, he has made this admission that no date was written on any of the copy of agreement. The fact is this that this applicant was in government service and posted in Govindgarh, District Riva. As claimed by the applicant, that the agreement was prepared on 07.09.1991 in his presence is falsified from the

documents obtained through R.T.I. from his place of posting, which shows that on that date, the applicant was present on his duties and he was not in the place at Raipur, where the agreement and copies were prepared, which shows that elements of offence of fraud and forgery in this case. Reliance has been placed in case of ***Ikbal Singh Marwah and Another Vs. Meenakshi Marwah and another***, reported in **(2005) 4 SCC 370** on this point that when a forged document is placed before the Court, bar created under Section 195(1) (b) (ii) Cr.P.C. would not come into play and the Court can take cognizance. Hence, it is prayed that the application for grant of bail be rejected.

5. I have heard the learned counsel for the parties and perused the documents placed on record.
6. The FIR was lodged by the complainant alleging that Gyan Ganga Education Institute was founded by the grand-father of the complainant in the year 1991. The institute was directed by father of the complainant who died on 06.06.1996. It is alleged that this applicant and others forged two agreements, which is purported to be signed on 07.09.1991. The said agreement has been made use of in various litigation filed by the applicant side. The allegation and the case against the applicant is this that he has made false statement before the Court in the complaint case filed by himself. It is further alleged by the complainant that forged agreements were prepared by this applicant with intention to cheat and caused wrongful loss to the complainant.
7. Considered the submissions made and the contents of the case diary. Considering on the entire material present in the case diary, it appears that litigation between the applicant and the complainant side is going on according to the submission made by the counsel for the objector. It

it would not be proper to comment on the evidence in this case regarding participation of this applicant in the alleged forgery of the agreement. The only case against the applicant prominently made out in this case, is of making false statement before the Court. As no judgment has been filed of said case in which the applicant has given statement, hence, it appears that the allegation made by the complainant is not supported with the finding of the Court that the applicant has made a false statement. The presence of the applicant on 07.09.1991 in his residence at Raipur is of course a serious question, if it is connected with execution of agreement between the parties in presence of this applicant, which shall be examined by the trial Court. But for the present, there does not appear any requirement to keep the applicant in continuous detention till the completion of trial only for the reason that prima-facie case is made out against him. Hence, after due consideration, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
9. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge